

controvention of the above section of the Legislative Reorganization Act, and therefore such action was without authority and void.

Being “actually present” means the member would have had to be present in committee, and a poll does not present a compliance with the rule.

MR. HOLLAND: Mr. President, a parliamentary inquiry.

THE PRESIDING OFFICER: The Senator from Florida will state it.

MR. HOLLAND: What is the status of the bill following the ruling of the distinguished Presiding Officer?

THE PRESIDING OFFICER: The status of the bill is that legally it has never left the committee.

MR. HOLLAND: The status of the bill is that it is still in the custody of the committee?

THE PRESIDING OFFICER: It is in the custody of the committee.

§ 18. Withdrawal or Withholding of Objections or Points of No Quorum

When a point of no quorum is made, no “business”⁽¹⁰⁾ is in

10. “Business” is a term of art which does not encompass all parliamentary proceedings. For example, the prayer, administration of the oath to a Member, receipt of messages from the President and Senate, motions incidental to a call of the House, and the motion to adjourn, which do not require a quorum, are in order after a point of no quorum. See §10, *supra*, for a discussion of the defini-

order. The point may be withdrawn⁽¹¹⁾ or withheld⁽¹²⁾ until announcement of absence of a quorum, after which the point may not be withdrawn even by unanimous consent.⁽¹³⁾

In General

§ 18.1 Withdrawal of a point of no quorum does not require unanimous consent.

On Nov. 15, 1967,⁽¹⁴⁾ during consideration of S. 2388, the Economic Opportunity Amendments of 1967, Chairman John J. Rooney, of New York, commented on an objection to withdrawal of a point of no quorum.

MR. [SAM M.] GIBBONS [of Florida]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. GIBBONS: Mr. Chairman I withdraw the point of order.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I object.

THE CHAIRMAN: Withdrawal of a point of order does not require unani-

tion of business. See also Rule XV clause 6, *House Rules and Manual* §774c (1979).

11. §§ 18.5, 18.6, *infra*.

12. §§ 18.10, 18.11 *infra*.

13. §§ 18.7–18.9, *infra*.

14. 113 CONG REC. 32662, 90th Cong. 1st Sess.

mous consent; so the point of order is withdrawn.

§ 18.2 Where objection is made to a vote on the ground that a quorum is not present and, pursuant to a special order, the Speaker declares that further proceedings will be put over until the following day, it is too late for another Member to demand tellers on the question, even though the point of no quorum is subsequently withdrawn.

On May 4, 1966,⁽¹⁵⁾ during consideration of H.R. 14745, the appropriations bill for the Department of Health, Education, and Welfare and the Department of Labor for fiscal year 1967, Speaker John W. McCormack, of Massachusetts, ruled on the timeliness of a demand for tellers after postponing consideration.

Consequences of Withdrawal

§ 18.3 Where a point of no quorum is made and withdrawn immediately after a division vote, it is then not too late to demand a teller vote on the pending proposition.

15. For the proceedings of this date, see § 13.5, *supra*.

On Mar. 8, 1946,⁽¹⁶⁾ during consideration of H.R. 5605, the agricultural appropriation bill for 1947, Chairman William M. Whittington, of Mississippi, ordered tellers.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Massachusetts [Mr. Heselton].

The question was taken; and on a division (demanded by Mr. Heselton) there were—ayes 42, noes 28.

MR. [REID F.] MURRAY of Wisconsin: Mr. Chairman, I make a point of order a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. MURRAY of Wisconsin: Mr. Chairman, I withdraw my point of no quorum.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MAHON: Mr. Chairman, is it too late to ask for tellers on this vote?

THE CHAIRMAN: No; it is not too late to ask for tellers.

MR. MAHON: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the chairman appointed as tellers Mr. Mahon and Mr. Heselton.

The committee again divided; and the tellers reported that there were—ayes 30, noes 48.

So the amendment was rejected.

16. 92 CONG. REC. 2084, 79th Cong. 2d Sess.

§ 18.4 Objection to a voice vote for lack of a quorum having been withdrawn and demand then being made for a division, an objection to the division vote for lack of a quorum is in order and, if a quorum is not present, the roll call is automatic.

On Feb. 5, 1957,⁽¹⁷⁾ Speaker Sam Rayburn, of Texas, entertained an objection to a division vote.

THE SPEAKER: The Clerk will report the amendment on which a separate vote is demanded.

The Clerk read as follows:

Amendment offered by Mr. Lanham: Page 5, line 7, after "\$275,000,000", strike out the colon and insert "*Provided*, That not more than \$15,728,000 of this amount may be used for State and local administration."

MRS. [EDITH S.] GREEN of Oregon: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

THE SPEAKER: The question is on the amendment.

The question was taken and the Speaker announced that the "ayes" had it.

MRS. GREEN of Oregon: Mr. Speaker, I object to the vote on the ground a quorum is not present.

THE SPEAKER: The Chair will count.

MRS. GREEN of Oregon: Mr. Speaker, I withdraw the point of order and ask for a division.

The question was taken; and on a division (demanded by Mrs. Green of Oregon) there were—ayes 118, noes 46.

MRS. GREEN of Oregon: Mr. Speaker, I object to the vote on the ground that a quorum is not present, and I make the point of order that a quorum is not present.

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. H. CARL ANDERSEN: The point of order is that that request has already been made in reference to this vote, and the gentlewoman withdrew it.

THE SPEAKER: The objection to the voice vote on the grounds that a quorum was not present was withdrawn. The objection to the vote by division, on the grounds that a quorum is not present, is in order.

Evidently a quorum is not present.

When Withdrawal Is Permitted

§ 18.5 A point of order that a quorum is not present may be withdrawn, providing the absence of a quorum has not been announced by the Chair; such withdrawal does not require unanimous consent.

On Apr. 11, 1962,⁽¹⁾ Speaker pro tempore W. Homer Thornberry, of Texas, ruled on whether unanimous consent is required for withdrawal.

MR. [JAMES B.] UTT [of California]: I have yielded once to the gentleman from Ohio already.

17. 103 CONG. REC. 1553, 85th Cong. 1st Sess.

1. 108 CONG. REC. 6379, 6380, 87th Cong. 2d Sess.

MR. [WAYNE L.] HAYS [of Ohio]: Well, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair will count.

MR. HAYS: Mr. Speaker, out of deference to the Speaker, whom I have known for 14 years as the majority leader previously, I will withdraw the point of order. But I will say I will make another one, if necessary.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: Does the gentleman from California [Mr. Utt] yield to the gentleman from Iowa [Mr. Gross] for a parliamentary inquiry?

MR. UTT: Mr. Speaker, I yield to the gentleman from Iowa for the purpose of making a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. GROSS: Mr. Speaker, does it require unanimous consent to withdraw a request for a quorum call?

THE SPEAKER PRO TEMPORE: It does not, the Chair will state to the gentleman from Iowa.

§ 18.6 In the Committee of the Whole, a point of order that a quorum is not present may be withdrawn before the absence of a quorum is ascertained, and unanimous consent is not required.

On Sept. 4, 1969,⁽²⁾ during consideration of H.R. 12085, extending the Clean Air Act, a point of no quorum was withdrawn.

(By unanimous consent, Mr. Koch was allowed to speak out of order.)

2. 115 CONG. REC. 24372, 24373, 91st Cong. 1st Sess.

MR. [EDWARD I.] KOCH [of New York]: Mr. Chairman, I believe that the speaker who just spoke——

MR. [CHARLES E.] CHAMBERLAIN [of Michigan]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:⁽³⁾ The Chair will count.

MR. CHAMBERLAIN (during the counting): Mr. Chairman, I withdraw my point of order.

MR. [JOE D.] WAGGONER [Jr., of Louisiana]: Mr. Chairman, a parliamentary inquiry.

Would it not be necessary under the rules of the House for the gentleman to ask unanimous consent to withdraw his point of order?

THE CHAIRMAN: The point of order can be withdrawn without the consent of the Committee of the Whole unanimously.

The gentleman from New York is recognized.

When Withdrawal Is Not Permitted

§ 18.7 Where the Chair after counting announces that a quorum is not present, a Member may not, even by unanimous consent, withdraw his point of no quorum, to permit the House to continue with its business without having first obtained a quorum.

On Dec. 18, 1937,⁽⁴⁾ Speaker William B. Bankhead, of Ala-

3. Cornelius E. Gallagher (N.J.).

4. 82 CONG. REC. 1846, 75th Cong. 2d Sess.

bama, ruled on the procedure after announcement of absence of a quorum.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Speaker, I suggest the absence of a quorum.

THE SPEAKER: The gentleman from Michigan makes the point of order that there is not a quorum present. The Chair will count. [After counting.] One hundred and fifty-six Members are present, not a quorum.

MR. RABAUT: Mr. Speaker, I will withdraw the motion.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a point of order. The Speaker has announced that a quorum is not present. The gentleman from Michigan cannot withdraw the point of order. The Speaker has announced that there is no quorum present. Business cannot be conducted after the Speaker has announced there is no quorum present.

THE SPEAKER: The Chair will hold that a point of order having been made that there was no quorum present, and the Chair having counted and announced that there was no quorum present, a constitutional question is raised. No quorum is present, as was announced by the Chair.

MR. [HENRY B.] STEAGALL [of Alabama]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Parliamentarian's Note: A unanimous-consent request is business of the House, which cannot be conducted in the proven absence of a quorum.

§ 18.8 In the House, the absence of a quorum being an-

nounced, it is too late to withdraw a point of order that there is no quorum present.

On May 23, 1939,⁽⁵⁾ Speaker William B. Bankhead, of Alabama, ruled on the timeliness of a withdrawal of a point of no quorum.

MR. [EDWARD E.] COX [of Georgia]: Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. Woodrum].

MR. [CHARLES R.] CLASON [of Massachusetts]: Mr. Speaker, I make the point or order there is not a quorum present.

THE SPEAKER: The gentleman from Massachusetts makes the point of order that there is no quorum present. The Chair will count. [After counting.] Two hundred and thirteen Members are present, not a quorum.

Mr. Clason and Mr. [Clifton A.] Woodrum of Virginia rose.

MR. CLASON: Mr. Speaker, I withdraw the point of order in view of the large number that are present.

THE SPEAKER: Under the circumstances, the Chair is not authorized to recognize the gentleman inasmuch as the Chair had already announced no quorum present. A constitutional question is raised.

§ 18.9 In the Committee of the Whole, it is too late to withdraw a point of no quorum after the Chair has counted

5. 84 CONG. REC. 6004, 76th Cong. 1st Sess.

and announced that a quorum is not present.

On Mar. 24, 1948,⁽⁶⁾ Chairman Francis H. Case, of South Dakota, responded to an attempt to withdraw a point of no quorum.

THE CHAIRMAN: The Chair will present that question to the Committee. The question is, Shall the gentleman be permitted to proceed with the reading of the letter?

The question was taken, and the Chair announced that the motion was agreed to.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count. [After counting.] Seventy-seven Members are present, not a quorum.

MR. MARCANTONIO: Mr. Chairman, I withdraw the point of order. I just want to show that courtesy can be extended in this House.

THE CHAIRMAN: The Chair has already announced the count.

The Clerk will call the roll.

Withholding

§ 18.10 A point of no quorum may not be reserved (withheld) after the Chair has announced that a quorum is not present.

On Mar. 14, 1938,⁽⁷⁾ Speaker William B. Bankhead, of Ala-

6. 94 CONG. REC. 3436, 80th Cong. 2d Sess.

7. 83 CONG. REC. 3319, 75th Cong. 3d Sess.

bama, ruled on the timeliness of withholding a point of no quorum.

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently there is not a quorum present.

MR. RAYBURN: Mr. Speaker, I withhold the point of order for the moment, as I understand there are some Members who wish to extend their remarks. I must announce, however, that for today I shall feel called upon to object to anyone having any time before going into the Committee of the Whole.

THE SPEAKER: The Chair is reluctantly obliged to hold, having announced that there was no quorum present, that the point of order may not be withheld. It raises a constitutional question. The rule will have to be observed.

MR. RAYBURN: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

§ 18.11 A point of no quorum may not be withheld after the absence of a quorum has been announced by the Chair; and no business is in order until a quorum is established.

On Sept. 7, 1959,⁽⁸⁾ Speaker Sam Rayburn, of Texas, did not permit a point of no quorum to be withheld.

MR. [ARMISTEAD I.] SELDEN [Jr., of Alabama]: Mr. Speaker, I ask unani-

8. 105 CONG. REC. 18442, 18443, 86th Cong. 1st Sess.

mous consent that it may be in order to consider under the general rules of the House the bill (H.R. 9069) to provide standards for the issuance of passports, and for other purposes; that general debate continue for not to exceed 1 hour, one-half to be controlled by myself and one-half controlled by the ranking minority member of the Committee on Foreign Affairs.

THE SPEAKER: Is there objection to the request of the gentleman from Alabama?

There was no objection. . . .

MR. [CHARLES O.] PORTER [of Oregon]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Speaker, will the gentleman withhold his point of order until a consent request can be acted upon?

THE SPEAKER: It is too late to do anything. He held the floor and the Chair declared that a quorum was not present. The only thing that can take place now is a call of the House.

MR. McCORMACK: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

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